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OFFICE OF PETITIONS

In re Application of :
YAMORI et al. :
Application No. 09/526,619 : DECISION ON APPLICATION
Filed: March 16, 2000 : FOR
Atty Docket No. FUJH 16.870 : PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed May 16, 2008. Applicants, in effect, request that the determination of patent term extension of 847 days in this application be corrected to a determination of patent term adjustment of 1,294 days.

The petition is **DISMISSED**.

On February 19, 2008, the Office mailed the Determination of Patent Term Extension under 35 U.S.C. § 154(b) (application filed after June 7, 1995 but prior to May 29, 2000) in the above-identified application. The Notice stated that the patent term extension to date is 847 days. Applicants assert they are entitled to a period of adjustment of 1,294 days.

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. Furthermore, the provisions do not apply to a request for continued examination (RCE) filed under 35 U.S.C. § 132(b) and 37 CFR 1.114 because a RCE is not a new application (it is a submission in a previously filed application). Thus, the filing an RCE in an application filed before May 29, 2000,

does not cause that application to be entitled to the benefits of the patent term adjustment provisions of 35 U.S.C. § 154(b) and 37 CFR 1.702 through 1.705.

As the filing date of this application, March 16, 2000, is before May 29, 2000, this application is not eligible for patent term adjustment due to examination delay.

The \$200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries with regard to this matter should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.



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